89-285

NO._____

IN THE

SUPREME COURT OF THE UNITED STATES

TERM_____

Supreme Court, U.S.
FILED
AUG 17 1989
JOSEPH F. SPANIOL, JR.
CLERK

---

JOSEPH MARTIN DELANEY, JR.

APPELLANT

vs.

LAWRENCE B, GIBBS,
INTERNAL REVENUE SERVICE,
INDIVIDUAL AND UNKNOWN FEDERAL
INTERNAL REVENUE AGENTS,
WHOSE NAMES ARE INDICATED BY THE
RECORDS OF THE INTERNAL REVENUE
SERVICE, INDIVIDUALLY-

APPELLEES

---

# PETITION FOR WRIT OF CERTIORARI TO THE EIGHTH CIRCUIT COURT OF APPEALS

SOLICITOR GENERAL
KENNETH W. STARR
DEPT. OF JUSTICE
WASHINGTON, D.C. 20530
202-633-2001

JOSEPH MARTIN DELANEY, JR
P.O. BOX 15
LEASBURG, MO. 65535
NO PHONE

## Questions Presented

1. Appellant asks if the Inferior Courts have the right to remove his Constitutional right to trial by jury?

2. Appellant asks this court if the IRS can confiscate his properties without a levy or lien, for another man's levy or lien?

3. Is fraud by government employees allowed to presist in some government agencies and not others?

4. Does the IRS have jurisdiction over appellant with no social security number, only a loan to provide for his further education in the United States?

5. Can the IRS violate their own code, rules and regulations and seize a persons property against the Constitution of the United States?

TABLE OF CONTENTS


| | |
|---|---|
| Questions Presented | 1 |
| Table of Contents | 2 |
| Reference | 3 |
| Concise Statement-Jurisdiction | 4 |
| Constitutional Provisions | 5 |
| Concise Statement | 8 |
| Argument | 9 |
| Conclusion | 10 |
| Appendix | 11 |
| Certificate of Service | |

REFERENCE

1.) NO. 88-1069EM-United States Court of Appeals---March 7,1989

Appellants petition for rehearing en banc has been considered by the Court and denied.

2.) NO. 88-1069Em-United States Court of Appeals---January 11,1989

Opinion not to be published.

3.) NO. 87-1446C(1)-United States District Court---December 28,1987

Order dismissed for lack of subject matter jurisdiction.

4.) NO. 88-1069EM-United States Court of Appeals---January 11,1989

Judgement affirmed.

## CONCISE STATEMENT

### JURISDICTION

(i) January 11,1989- Case No. 88-1069Em Judgement of the District Court was affirmed by the United States Court of Appeals for the Eighth Circuit.

(ii) March 7, 1989-Case No. 88-1069Em Appellant's petition for rehearing en banc by the Court is denied and rehearing by the panel is also denied.

Article IV. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not to violated and no warrant shall be issured, but upon probable cause, supported by oath or affirmation and particularly describing the place to be seized.

Article V. No person shall be deprived of LIFE, LIBERTY or PROPERTY, without due process of law; nor shall private property be taken for public use without just compensation.

Article VI. In all criminal prosecutions, the accused shall enjoy the right to a speed and public trial, by an impartial jury of

of the state and district wherein the crime shall be committed, which district shall have previously been ascertained by law, and to be imformed of the nature and cause of the accusation; to be confronted by witnesses against him, to hace compulsory process for obtaining witnesses in his favor and to have assistance of counsel for his defense.

Article VII. In suits of common law where the value in controversy shall exceed twenty dollars, the right to trial by jury shall be preserved, and no fact tried by a jury, shall otherwise be re-examined in any court of the United States, than according to the rules of the common law.

Article IX. The enumeration in the Constitutuion, of certain rights, shall not be construed to deny or disparge others retained by the people.

Article XIV. Section 1-- All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the state wherein they reside. No state shall make or enforce any law which shall abridge the priveleges or immunites of citizens of the United States; nor shall any state deprive any person, life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of law.

## CONCISE STATEMENT

The Internal Revenue Service violated their own code of Rules and Regulations by seizing and selling my stock without a notice of a levy or lien against me.

The IRS Code clearly states there must be a notice of a lien or levy sent first, before any seizure can take place. since, to this day, I have no lien or levy against me, my stock should not have been seized and sold. The stock was clearly marked, Joseph Martin Delaney, Jr. and therefore the IRS agents had no reason at all to violate my Constitutional rights. They have liens against my father, but not againdt me w' atsoever. That still presista today.

Appellant believes that a social security number does not override his name as to ownership of said stock, but only gives the broker the right to buy and sell stock at his father's request.

ARGUMENT

The Supreme Court's power to rule on the constitutionality of acts of Congress and of state legislatures is called judicial reveiw. This power was implied, but not specified, in the Constitution. It was established as a function of the Court in 1803 by Chief Justice John Marshall (Marbury vs, Madison). Marshall ruled that if a statute and the Constitution are in conflict, the Court must base it's decision on the higher body of law--the Constitution. This decision helped insure the uniform application of constitutional law throughcut the United States.

## CONCLUSION

Appellant seeks to be reimbursed for the stock prices of approximately $40,000 at the time of seizure and sale, plus the difference at the time of the high stock price of 2725 index. An amount equal to or approximately $172,000 plus para-legal fees, court fees and self-related fees of travel and research. At this time of writing, it is approximately $14,000 and still growing.

Joseph M Delaney Jr

Joseph Martin Delaney, Jr.
Attorney Pro-Se
P.O. Box 15
Leasburg, Mo. 65535
No Phone

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

January 11, 1989

Mr. Joseph Martin Dealney, Jr.
P.O. Box 15
Leasburg, Mo. 65535

Re; 88-1069EM Joseph Martin Dealney, Jr.
v. Lawrence B. Gibbs, etal

Dear Counsel:

Enclosed is a copy of the opinion filed today in the referenced case. Judgement in accordance with the opinion is also entered today. The opinion will not be published.

Please review Federal Rules of Appelate Procedure 35 and 40 and Eighth Circuit Rules 15 and 16. Petitions for rehearing must be received by the Clerk's office within the time set by FRAP 40 (within 14 days of entry of judgement) unless entended by court order. Petitions for rehearing are not afforded any grace period for mailing and are subject to being denied if not timely received. Please rewiew Eighth Circuit Rule 16(d) if an en banc reguest is contemplated.

Sincerely
Robert St. Vrain, Clerk

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

NO. 88-1069EM

| | | |
|---|---|---|
| JOSEPH MARTIN DELANEY, JR. | ) | |
| | ) | |
| APPELLANT | ) | APPEAL FROM THE |
| | ) | UNITED STATES DISTRICT |
| vs. | ) | COURT FOR THE EASTERN |
| | ) | DISTRICT OF MISSOURI |
| LAWRENCE B. GIBBS, et al | ) | |

APPELLEES

Appellant's petition for rehearing en banc has been considered by the court and is denied.

Petition for rehearing by the panel is also denied.

March 7, 1989

Order entered at the Direction of the Court

Clerk, U. S. Court of Appeals, Eighth Circuit.

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

JUDGEMENT

FILED
March 7, 1989

No. 88-1069Em

| | | |
|---|---|---|
| Joseph Martin Delaney, Jr.<br>Appellant | * | |
| vs. | * | |
| Lawrence B. Gibbs, Internal Revenue Service & Individually and Unknown Federal Internal Revenue Service Agents, whose names are indicated by the records of the Internal Revenue Service, Individually.<br>Appellees | * | Appeal from the United States District Court for the Eastern District of missour |

This appeal from the United States District Court was submitted on the record of the district court and briefs of the parties without oral argument.

After consideration, it is ordered and adjudged that the judgement of the district court in this couse be affirmed in accordance with the opinion of this court. See 8th Cir. R.14

January 11, 1989

Robert D. St. Vrain
Clerk, U.S. Court of Appeals

Mandate Issued 3/16/89

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

Filed
Dec. 28,1987

Joseph Martin Delaney, Jr. )
)
Plaintiff )
)
vs. )
)
Mr. Lawrence B. Gibbs, etal., )

Defendents

ORDER

Pursuant to the memorandum filed herein this day,

IT IS HEREBY ORDERED that defendents motion to dismiss be and is granted.

IT IS FURTHER ORDERED that plaintiff's action be and is dismissed for lack of subject matter jurisdiction.

John F. Nangle

United Staes District

Dated; December 28, 1987

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED THAT SERVICE OF THE FOREGOING LETTER HAS BEEN MADE UPON THE DEFENDENTS AND THEIR ATTORNEYS, BY MAILING A COPY THEREOF ON THIS 14 DAY OF AUGUST, 1989, IN AN ENVELOPE WITH POSTAGE PREPAID, SIGNED RECEIPT REQUESTED.

Joseph M Delaney Jr

JOSEPH MARTIN DELANEY, JR.
ATTORNEY PRO-SE
P.O. BOX 15
LEASBURG, MO 65535

LAWRENCE B. GIBBS
1111 CONSTITUTION AVE.
WASHINGTON, D.C. 22024

INTERNAL REVENUE SERVICE
AND UNKNOWN AGENTS
1114 MARKET ST.
ST. LOUIS, MO 63101

GARY R. ALLEN
P.O. BOX 502
WASHINGTON, D.C. 20044

UNITED STATES ATTORNEY
1114 MARKET ST.
ST. LOUIS, MO 63101

UNITED STATES ATTORNEY GENERAL
MAIN JUSTICE BUILDING
WASHINGTON, D.C. 20530